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October 7, 2022

Via ECF

Hon. Denise L. Cote
USDC – Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Equitable Advisors, LLC v. Gordon, et. al.,
Case No.: 1:22-cv-04990-DLC

Dear Judge Cote:

This firm represents Plaintiff Equitable Advisors, LLC (“Equitable”) in the above-captioned action (the “Action”) relating to the assets held in an account (the “Account”) owned by The Linda M. Kahn 2015 Revocable Trust (the “Trust”). Pursuant to Rule 1(E) of Your Honor’s Individual Practices, we respectfully write, with the consent of all parties, to request an extension of time for Equitable and Defendants Jo Ann Weinstein (“Weinstein”) and Christopher Gordon (“Gordon”) to respond to certain claims asserted by Defendants Jason Reisch, Daniel Reisch, Naama Ashtamker, Alon Malichi, and Naor Malichi (collectively, the “Trust Beneficiaries”). This request is made to allow time for Third-Party Defendants CMG Financial Planning, Ltd. d/b/a Capital Management Group of New York (“CMG”) and William Edward Galvin (“Galvin”) to appear in the Action and be included in early mediation of the various claims which the parties to the Action have asserted against each other.

In addition, the parties who have a potential claim to the assets in the Account, namely Gordon and the Trust Beneficiaries, along with Weinstein, who is a co-trustee of the Trust, consent to the deposit of the cash currently held in the Account. Equitable made a prior motion for deposit of these funds, which was denied without prejudice until the parties to the Action had been served. [Doc. 7]

On September 19, 2022, the Trust Beneficiaries answered Equitable’s Complaint in Interpleader, asserted counterclaims against Equitable, cross-claims against Weinstein and Gordon, and initiated a third-party complaint against CMG and Galvin. [Doc. 31] Equitable, Weinstein, and Gordon currently have until October 12, 2022 to respond to these claims. On October 4, 2022, the Trust Beneficiaries filed their Affidavits of Service confirming that CMG and Galvin had been served with the third-party complaint. [Doc.36]

Counsel for Equitable, Gordon, Weinstein, and the Trust Beneficiaries have been communicating regularly to reach agreement on resolution of this matter, including the administration of the account owned by the Trust and early mediation to take place in January. I have been advised that CMG and Galvin have engaged counsel and are also interested in participating in mediation. Upon the appearance of counsel for CMG and Galvin in the Action, the parties anticipate making a joint request to stay all proceedings pending mediation.

Under the circumstances, counsel is requesting an adjournment of the time for Equitable, Weinstein, and Gordon to respond to the claims of the Trust Beneficiaries until November 21, 2022. This is the parties' first request for an extension of their responses to these claims. This request affects the filing of the Rule 26 Report and the timing of the Pretrial Hearing currently set for November 18, 2022.

Submitted herewith is a Stipulation and Proposed Consent Order extending the time for Equitable, Weinstein, and Gordon to respond to the claims of the Trust Beneficiaries and for the deposit of the cash in the Account should Your Honor grant the request. All counsel consent to the form and entry of the Stipulation and Consent Order.

We thank Your Honor for consideration of this request.

Respectfully submitted,

/s/ Kimberly A. O'Toole
Kimberly A. O'Toole, Esq.